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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,835

11/24/2003

Anthony Rose

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EXAMINER

OBEID, MAMON A

ART UNIT

PAPER NUMBER

3621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/720,835	<b>Applicant(s)</b> ROSE, ANTHONY	
	<b>Examiner</b> MAMON OBEID	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1- 37 is/are pending in the application.
- 4a) Of the above claim(s) 17, 18 and 20-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1- 16 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/24/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgements***

1. Applicant's election without traverse of Group I in the reply filed on December 12, 2007 is acknowledged.
2. Claims 17, 18 and 20- 37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 12, 2007.
3. Claims 1- 16 and 19 have been preliminary amended.
4. Claims 1- 16 and 19 are currently pending and have been examined.

### ***Information Disclosure Statement***

5. The Information Disclosure Statement filed on April 24, 2005 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### ***Claim Objections***

6. Claims 1- 16 are objected to because of the following informalities: Claim 1 for example, recites the phrase "having" in the limitations "*having the first trusted entity send the ticket to the server* " and "*having the second trusted entity modify the ticket*". The Examiner is unclear if the above limitations recite a positive step. It's unclear if the sending and the modifying steps as recited above are actually occurring. Appropriate correction is required.

6. Claim 6 for example, recites *"the method of claim 1 further comprising the step..."*. Is the phrase "the step" refers to a step that was recited earlier in the claim, if yes which one? If no, the Examiner recommends replacing the word "the" with the letter "a".

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8 and 9 are rejected under 35 U.S.C. §101 because the claims are considered hybrid claims. See MPEP §2173.05(p) II. If Applicants overcome the related 35 U.S.C. §112 2nd paragraph rejection below, this particular 35 U.S.C. §101 rejection will be withdrawn.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1- 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 for example, recites the limitation "having the first entity send the ticket to the server". There is insufficient antecedent basis for

the limitation “the ticket” in the claim. The Examiner is unclear if the Applicant is referring to the “ticket” recited earlier in the claim or if Applicant is referring to the “modified ticket”.

9. Claims 8 and 9 claims are indefinite because the claims are considered hybrid claims. See MPEP §2173.05(p) II. In particular, the claims are directed to neither a “process” or a “machine” but rather embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C §101. For example, claims 8 and 9 recites “a module”, a “receipt request generator”, “receipt generator module” and “receipt validation module” without any positive method step recitation. In light of this evidence, the Examiner interprets these recitations as express intent by Applicants to claim a product claim. Additionally, claims 8 and 9 dependent on claim 1 which recites “a method of measuring...” In light of the conflicting evidence noted above, claims 8 and 9 could reasonably be drawn to either a product or process. In accordance with §2173.05(p) II which states that a single claim must be drawn to either a product or process (but not both) and because a competitor of Applicants would not know whether *possession* of the claimed structure constituted infringement, or alternatively, if infringement required the *execution* of the recited method steps, the claims are indefinite. If Applicants overcome this particular 35 U.S.C. §112, 2<sup>nd</sup> paragraph rejection, the related 35 U.S.C. §101 rejection will also be withdrawn. For examination purposes, the Examiner will interpret claims 8 and 9 as claims directed to a method only.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1- 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curie et al (U.S. Patent No. 6, 871, 232 B2) ("Curie") in view of Dutta (U.S. Patent Application Publication No. 2003/0093695), ("Dutta").

12. **As per claims 1, 12, 13, 14 and 19 :** Curie discloses the following limitations:

- a. *associating a first trusted entity with the first user; associating a second trusted entity with the second user (column 3, lines 45- 57);*
- b. *receiving, from the first trusted entity, information about an intended resource use (column 4, lines 21- 40);*
- c. *providing a ticket, from a server to the first trusted entity, wherein said ticket includes at least portion of said information (column 4, lines 21- 40);*
- d. *transmitting said ticket from the first trusted entity to the second trusted entity (column 4, lines 21- 40);*

Curie Does not expressly discloses modifying the ticket and comparing the original ticket with the modified ticket. However, Dutta does explicitly disclose the following limitations:

- e. *having the second trusted entity modify the ticket (¶ [0015]);*
- f. *transmitting said modified ticket to the first trusted entity (¶ [0015]);*
- g. *having the first trusted entity send the ticket to the server (¶ [0013]) ; and*
- h. *utilizing said ticket and said modified ticket to determine the extent of resources provided by the second user to the first user (¶ [0045]) .*

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie's teachings to include the steps (e- h) as shown above and disclosed by Dutta to authenticate the source of a ticket and to ensure that the that the ticket has not been altered during transmission.

12. **As per claim 2:** Curie further discloses *wherein the benefit or resources provided by the second user include at least one of provision of a file, provision of bandwidth, provision of CPU cycles, or provision of disk or memory storage* (column 8, lines 3-14).

13. **As per claim 3:** Curie further discloses *wherein the ticket issued by the server comprises at least one of a machine identification field, a field for a file name, a field for a hash of a file, a field for a randomly generated number, a weighting field, a time field, a value field, or a date field* (column 34, lines 1- 20).

14. **As per claim 4:** Curie further discloses *wherein the server stores a copy of said ticket* (column 4, lines 21- 40).

15. **As per claims 5, 6 and 7:** In addition to the limitations of claim 1 above, Curie further discloses a ticket validation/ authentication (column 34, lines 1- 20). Curie on the other hand doesn't expressly discloses *wherein the second trusted entity validates the ticket by checking for a signature from the server*, however, Dutta discloses authenticating the ticket by checking the signature (§ [0015]).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie's teachings to incorporate a digital signature for ticket validation to authenticate the source of ticket and to ensure that the that the ticket has not been altered during transmission.

16. **As per claims 8 and 9:** Curie further discloses *said first trusted entity is a module incorporating authentication, encryption or data signing capabilities in data communication with a computing device* (figures 7A- E and related text).

17. **As per claims 15 and 16:** Curie further discloses *having the first trusted entity organize a plurality of tickets into a record and communicating said record to the server; determining, from said record, the extent of resources provided by a plurality of second users to a plurality of first users and modifying a database to record the extent of resources provided by said plurality of second users to said plurality of first users* (column 34, lines 1- 65).



18. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curie in view of Dutta and further in view of Terretta (U.S. Patent Application Publication No. 2001/0047275 A1).

19. **As per claims 10 and 11:** The combination Curie/ Dutta discloses the limitations of claim 1 as shown above. The combination Curie/ Dutta does not expressly disclose *having the server conduct a redundancy check prior to, or subsequent to, issuing the ticket, wherein the step of conducting the redundancy check is achieved by determining whether a file being accessed by the first user has not already been downloaded.* However, Terretta discloses ensures that a registered user does not simultaneously receive multiple content files by monitoring and checking the status of each registered user before delivering content thereto (§§ [0020]-[0022]).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Curie/ Dutta's teachings to include a redundancy check function disclosed by Terretta to prevent unregistered users from downloading content by using personal information of a registered user, in other words, to ensure that "one ticket, one seat" is achieved (Terretta (§ [0020])).

20. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages

and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

21. In light of applicant's choice to pursue product/method claims, Applicants are reminded that functional recitation(s) using the word and/ or phrases "for", "adapted to" or other functional language (e.g. claim 1 recites "*utilizing said ticket...to determine*" and claim 16 for example recites "*...wherein said server is capable of...*") have been considered but are given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language (see e.g. *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983, which states that although all the limitations must be considered, not all limitations are entitled to patentable weight). To be especially clear, all limitations have been considered. However, a recitation of the intended use of the claimed product must result in a structural difference between the claimed product and the prior art in order to distinguish the claimed product from the prior art. If the prior art structure is capable to performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also MPEP §§ 31.06 II (c.), 2114 and 2115. Unless expressly noted otherwise by the Examiner, the claim interpretation principles in this paragraph apply to all examined claims currently pending.

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Jancula, (U.S. Patent No.) discloses Internet third-party authentication using electronic tickets.
- b. Benejam et al (U.S. Patent Application Publication No. 2004/0073908 A1) discloses a method for offloading and sharing CPU and RAM utilization in a network of machines.
- c. Wang et al "Ticket-based service access scheme for mobile users" discloses a global solution for all kinds of mobile services, by a ticket-based service access model that allows anonymous service usage in mobile application and access.
- d. Busboom et al (WO 2004/088947) discloses a method for provision of access.
- e. Foster et al (U.S. Patent Application Publication No. 2004/0088576 A1) discloses a secure resource access method.
- f. Lumelsky et al (U.S. Patent No. 6, 516, 350 B1) discloses a self regulated resource management of distributed computer resource.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mamon Obeid whose telephone number is (571) 270-1813. The examiner can normally be reached on Mon-Fri 9:30 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mamon Obeid  
Examiner  
Art Unit: 3621  
April 2, 2008

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621